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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,383	02/24/2004	Ernest J. Storrer	INJS-1-1003	6508
25315	7590	10/10/2006	EXAMINER	
BLACK LOWE & GRAHAM, PLLC 701 FIFTH AVENUE SUITE 4800 SEATTLE, WA 98104			LU, JIPING	
			ART UNIT	PAPER NUMBER
			3749	

DATE MAILED: 10/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/785,383	STORRER ET AL.	
	Examiner	Art Unit	
	Jiping Lu	3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/3/06 & 7/17/06.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 20 and 21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19, 22-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/3/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Status

1. Claims 1-23 are now in the case and subject to restriction requirement (35 USC 121). Constructively, non-elected claims 20-21 stand withdrawn from consideration. Claims 1-19 and 22-23 are constructively elected and finally rejected as follows.

Election/Restrictions

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-19 and 22-23 are, drawn to a combination of vacuum system and a vacuum mat, classified in class 34, subclass 92.
 - II. Claims 20-21 are, drawn to a subcombination of vacuum mat, per se, classified in class 15, subclass 215.

The inventions are distinct, each from the other because of the following reasons:

3. Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination claims do not require the claimed indentations and indentation free perimeters as recited in the subcombination claims 1, 6, 10, 11, 17-19 and 22-23. The subcombination has separate utility such as filter

The examiner has required restriction between combination and subcombination inventions. Where applicant elects a subcombination, and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

4. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

5. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

7. Newly submitted claims 20-21 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: see above

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 20-21 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

8. This application contains claims 20-21 drawn to an invention nonelected. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Inventorship

9. In view of the papers filed 4/3/06, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by adding inventor Eric Sean Storrer.

Claim Rejections - 35 USC § 112

10. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

11. Claim 19 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described

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in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The claimed limitation of a plurality of protrusion in claim 19 is new matter which is not supported by the originally filed specification.

Claim Rejections - 35 USC § 102

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claims 6-9 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Anderson (U. S. Pat. 5,870,797).

Anderson shows a surface drying system comprising: a vacuum mat 11 having a surface with at least one vacuum port (at 12) and a plurality of channels 10; and a vacuum source 33 connected with the port, wherein the vacuum source creates an enclosure of negative pressure within the perimeter of the mat and urges water to flow through the channels towards the vacuum source to effect moisture removal. For claims 7-8, see Fig. 1C. For claim 9, manifold 13 having at least one nozzle, the first end of the nozzle in fluid communication with the vacuum source 33 and the second end of the nozzle in fluid communication with the mat 11.

Anderson also show a system for removing moisture, the system comprising: a means 11, 13 for applying a vacuum over a surface, said means for applying comprising a manifold 13 and configured to have a lattice formation (see Fig. 3B), the lattice formation providing spaces 11a;

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a means (top portion of 13) for connecting the manifold with a vacuum source; and a vacuum source 33.

14. Claims 6-9, 18, 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Wenander (U. S. Pat. 4,203,714).

Wenander shows a surface drying system comprising: a vacuum mat 2,5-7 having a surface with at least one vacuum port 11 and a plurality of channels (between 9); and a vacuum source (col. 2, lines 35-36) connected with the port, wherein the vacuum source creates an enclosure of negative pressure within the perimeter of the mat and urges water to flow through the channels towards the vacuum source to effect moisture removal. For claims 7-8, see Fig. 1. For claim 9, manifold 3 having at least one nozzle 4, the first end of the nozzle in fluid communication with the vacuum source and the second end of the nozzle in fluid communication with the mat.

Wenander also show a system for removing moisture, the system comprising: a means 2-6 for applying a vacuum over a surface 1, said means for applying comprising a manifold 3 and configured to have a lattice formation, the lattice formation providing spaces (see Figs. 1-3); a means (not shown, inherent) for connecting the manifold with a vacuum source; and a vacuum source (col. 2, lines 35-36).

Wenander also show a surface drying system comprising a vacuum mat 2-9 having a first surface 6 with at least one vacuum port 7, a plurality of protrusions 9, and a vacuum source (col. 2, lines 35-36) same as claimed in claim 19.

15. Claims 18 and 22-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Creskoff (U. S. Pat. 3,506,747).

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Creskoff shows a system for removing moisture comprising a means 20 for applying a Vacuum over a surface, the means for applying comprising a manifold 46, 52 and configured to have a lattice formation, the lattice formation providing spaces (see Fig. 3), a means 44 for connecting the manifold with a vacuum source and a vacuum source (col. 2, lines 70-72).

Creskoff also shows a vacuum system comprising a plurality of overlapping strands forming a grid 46-58, a vacuum mat 22 including a substantially flat interior (see Fig. 4) including at least one port (at 44) extending upward from the mat and a substantially flat perimeter 24 extending below the vertical level of the interior and a manifold 66, 44 which are arranged same as claimed.

16. Claim 18 is rejected under 35 U.S.C. 102(b) as being anticipated by Borg (U. S. Pat. 3,786,531).

Borg shows a system comprising a means 10 comprising a manifold 14 and configured to have a lattice formation (see Fig. 1), the lattice formation providing spaces (at 16), a means for connecting 21, 24, 27 for connecting the manifold 14 with a vacuum source 22 and a vacuum source. As for the limitations, “for removing moisture” in line 1, “ for applying a vacuum over a surface” in line 2, they are viewed as functional or intended use limitations. As MPEP 2114 states, “[a] claim containing a “recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus” if the prior art apparatus teaches all the structural limitations of the claim”. In this case, the limitations above do add not any structural limitations to the claim and Borg discloses all the structural limitations. Additionally while not disclosed, the means 10 of Borg is capable of being used for applying a vacuum over a surface and for removing moisture.

Claim Rejections - 35 USC § 103

17. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

18. Claims 11-16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wenander (U. S. Pat. 4,203,714).

Wenander also show a system for removing moisture, the system comprising: a means (inherent by hand or other device) for placing at least one water impermeable vacuum mat 2, 5-6 having a manifold 3 over a surface 1, the mat configured to have a lattice formation, the lattice formation providing spaces; a means (not shown, inherent) for connecting the manifold with a vacuum source; and a means (col. 2, lines 35-36) for applying a vacuum, wherein negative pressure causes water to flow through the spaces within the lattice formation to the vacuum source to effect moisture removal underneath and from the surface. Wenander discloses the claimed invention except for the manifold integrally formed with vacuum mat. It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the manifold integrally with the vacuum mat, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. In re Larson, 144 USPQ 347,349 (CCPA 1965). With regard to the claimed multiple vacuum mats in claim 14, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the vacuum system with multiple vacuum mats, since it has been held that mere duplication of the essential working parts of a device involve only routine skill in the art. In re Harza, 274 F. 2d 669, 124 USPQ 378 (CCPA 1960). With regard to

a second vacuum mat placed on a second plane as claimed in claim 16, it would have been an obvious matter of design choice to place any number of vacuum mat on any desired plane in order to obtain the optimum result since applicant has not disclosed that the claimed step of placing second vacuum mat on second plane solves any stated problem in a new or unexpected way or is for any particular purpose which is unobvious to one of ordinary skill in the art.

19. Claims 1-5, 10, 17, 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (U. S. Pat. 5,870,797) or Wenander (U. S. Pat. 4,203,714).

The moisture removing apparatus of Anderson or Wenander as above includes all that is recited in claim 1-5, 10 and 17, 19-22-23 except for using a vacuum chamber for removing the water from a surface. However, it would have been obvious to one skill in the art at the time the invention was made to substitute a vacuum chamber for the vacuum mat of Anderson or Wenander for removing the water from a surface since applicants admitted that embodiment of the claimed design in claims 1-5, 10, 17, 19 and 22-23 is obvious variation of the embodiment as claimed in claims 6-9, 11-16 and 18 to one ordinary skill in the art therefore the claims 1-5, 10, 17, 19 22-23 and claims 6-9, 11-16, 18 are not separate and distinct (see last line of page one of the election filed on 8/15/05).

Response to Arguments

20. Applicant's arguments filed 4/3/06 and 7/17/2006 have been fully considered but they are not persuasive to overcome the rejection. First, broad claims presented failed to structurally define over the prior art references. Please point out from the claims exactly which limitations that the prior art references do not teach or show. Second, in the amendment, the applicant has

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broadened claims 11, 17 and 18. The broadened claims still are readable onto the prior art references. Third, the newly added broad claims 20-21 are withdrawn from consideration due to the constructive election. No comments or rejection is necessary. Fourth, the newly added claims 22-23 are directed the species of Figs. 6c and 6d which was admitted by the applicant that the claimed features were obvious variation over the other embodiments of figs. 11, 12, 13A.

Therefore, they are rejected with the claims 1-5, 10, 17 for the same reasons as above stated in the rejection under Anderson (U. S. Pat. 5,870,797) or Wenander (U. S. Pat. 4,203,714). Fifth, on pages 8-9 of Remarks, the applicant traversed the rejection of claims 6-9 and 18 because the Anderson's device are within the support platform not "within or as part of the mat itself".

Applicant also argued that Anderson patent teaches a mat with tubes and a support platform with channels and does not anticipated broad claims 6-9 and 18. The examiner disagrees. It is noted the broad claims 6-9 and 18 do not recite any limitations as argued herein. In other words, the applicant is arguing something not in the claims. The applicant must focus on the claim limitations that the prior art references do not teach or show. In this case, Anderson shows a surface drying system comprising: a vacuum mat 11 having a surface with at least one vacuum port (at 12) and a plurality of channels 10; and a vacuum source 33 connected with the port, wherein the vacuum source creates an enclosure of negative pressure within the perimeter of the mat and urges water to flow through the channels towards the vacuum source to effect moisture removal. The broad claims are clearly anticipated by Anderson patent. Sixth, pages 9-10 of the Remarks, the applicant argued that Wenander patent does not anticipate claims 6-9, 11-15 and broadened claim 18 because the applicant requires only a vacuum mat and a vacuum source and Wenander requires extra elements. However, broad claims 6-9 and 18 do not include any

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structural limitations that the Wenander patent does not show or teach. Is the applicant's intention to claim an absence of an element as his/her invention? In this case, the Wenander patent does show a surface drying system comprising: a vacuum mat 2, 5-7 having a surface with at least one vacuum port 11 and a plurality of channels (between 9); and a vacuum source (col. 2, lines 35-36) connected with the port, wherein the vacuum source creates an enclosure of negative pressure within the perimeter of the mat and urges water to flow through the channels towards the vacuum source to effect moisture removal. The broad claims 6-9, 11-15 and 18 still are anticipated and readable on the Wenander patent. Seventh, page 10 of Remarks, the applicant argued that the claim 11 included the limitation regarding "at least one integrally formed manifold" and the Wenander patent does not integrally formed manifold. The examiner disagrees because it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. In re Larson, 144 USPQ 347,349 (CCPA 1965). Eighth, on pages 10-11 of the Remarks, the applicant traversed the rejection of claims 1-18 under 35 USC 103 without giving any reasons. Therefore, the traversal of rejection under 35 USC 103 without reasons is deemed to be admission by the applicant. No further comment is deemed necessary.

Conclusion


21. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jiping Lu whose telephone number is 571 272 4878. The examiner can normally be reached on Monday-Friday, 9:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, EHUD GARTENBERG can be reached on 571 272-4828. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jiping Lu
Primary Examiner
Art Unit 3749

J. L.